



**Billing Code: 4333–15**

**DEPARTMENT OF THE INTERIOR**

**Fish and Wildlife Service**

**[FWS–R3–ES–2016–N046; FVES59420300000F2 14X FF03E00000]**

**MidAmerican Wind Energy Habitat Conservation Plan; Draft Environmental Impact Statement**

**AGENCY: Fish and Wildlife Service, Interior.**

**ACTION:** Notice of intent to prepare an environmental impact statement; notice of scoping meetings; and request for comments.

**SUMMARY:** Pursuant to the National Environmental Policy Act of 1969, as amended (NEPA), we are advising the public that we intend to prepare an environmental impact statement (EIS) on a proposed Endangered Species Act (ESA) incidental take permit (ITP) application from MidAmerican Energy Company (MEC) for the federally endangered Indiana bat, the federally threatened northern long-eared bat, the little brown bat, and the bald eagle. We are also announcing the initiation of a public scoping process to engage Federal, Tribal, State, and local governments; special interest groups; and the public in the identification of issues and concerns, potential impacts, and possible alternatives to the proposed action.

MEC is currently operating (20) and constructing (2) wind energy facilities in the State of Iowa capable of generating more than 4,040 megawatts (MW) of wind generation capacity, and expects to construct additional wind energy projects over the next 30 years. MEC is preparing a habitat conservation plan (HCP) in support of its ITP application for both MEC's existing facilities and facilities presently under construction.

Construction, operation, maintenance, decommissioning, reclamation, and repowering of wind energy facilities, as well as activities associated with the management of mitigation land, have

the potential to impact certain bat and bird species. Species to be covered in the MEC HCP include the federally listed endangered Indiana bat, the federally listed threatened northern long-eared bat, the unlisted little brown bat and the bald eagle, which is protected under the Eagle Act. As allowed under the Eagle Act, we anticipate extending Eagle Act take authorization for bald eagle through an ESA Section 10(a)(1)(B) permit associated with the HCP, provided MEC is in full compliance with the terms and conditions of the permit and Eagle Act.

**DATES:** Public scoping will begin with the publication of this NOI in the *Federal Register* and will continue through [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]. We will consider all comments on the scope of the EIS analysis that are received or postmarked by this date. Comments received or postmarked after this date will be considered to the extent practicable. We will conduct two public scoping meetings during the scoping period. The scoping meetings will provide the public with an opportunity to ask questions, discuss issues with Service and State staff regarding the EIS, and provide written comments.

- May 17, 2016– Council Bluffs Public Library, 400 Willow Avenue Council Bluffs, Iowa, 5:30 to 7 p.m.
- May 18, 2016 –FFA Enrichment Center , 1055 SW Prairie Trail Parkway, Ankeny, Iowa, 5:30 to 7 p.m.

In addition, we will host an online webinar on April 20, 2016 at 1:00 pm Central Time. Additional information on the proposed action, including how to participate in the webinar, is provided on the Internet at: <http://www.fws.gov/midwest/rockisland/te/index.html>

**ADDRESSES:** Send written comments via U.S. mail to the Field Supervisor, U.S. Fish and Wildlife Service, Rock Island Field Office, 1511 47<sup>th</sup> Avenue, Moline, Illinois 61265; by facsimile at 309-757-5807; or by electronic mail to [RockIsland@fws.gov](mailto:RockIsland@fws.gov).

**FOR FURTHER INFORMATION CONTACT:** Amber Schorg at 309-757-5800, extension

222 (telephone) or amber\_schorg@fws.gov (email). If you use a telecommunications device for the deaf, please call the Federal Information Relay Service at (800) 877-8339.

## **SUPPLEMENTARY INFORMATION:**

### **Introduction**

Pursuant to the NEPA, 42 U.S.C. 4321 *et seq.*, we advise the public that we intend to prepare an environmental impact statement (EIS) to evaluate impacts associated with several alternatives related to the potential issuance of ITPs to MEC (Service's proposed action). ITPs would be expected to cover the federally endangered Indiana bat (*Myotis sodalis*), the federally threatened northern long-eared bat (*Myotis septentrionalis*), the little brown bat (*Myotis lucifugus*), and the bald eagle (*Haliaeetus leucocephalus*). We are also announcing the initiation of a public scoping process to engage Federal, Tribal, State, and local governments, special interest groups, and the public in the identification of issues and concerns, potential impacts, and possible alternatives to our proposed action.

Section 9 of the ESA prohibits "take" of fish and wildlife species listed as endangered under section 4 (16 U.S.C. 1538, and 1533, respectively). The ESA implementing regulations extend, under certain circumstances, the prohibition of take to threatened species (50 CFR 17.31). Under section 3 of the ESA, the term "take" means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or attempt to engage in any such conduct (16 U.S.C. 1532(19)). The term "harm" is defined by regulation as an act which actually kills or injures wildlife. Such act may include significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding, or sheltering (50 CFR 17.3). The term "harass" is defined in the regulations as an intentional or negligent act or omission which creates the likelihood of injury to wildlife by annoying it to such an extent as to significantly disrupt normal behavioral patterns which include, but are not limited to, breeding, feeding, or sheltering (50 CFR 17.3).

Under section 10 of the ESA, the Service may issue permits to authorize incidental take of

federally listed fish and wildlife species. “Incidental take” is defined by the ESA as “take that is incidental to, and not the purpose of, carrying out an otherwise lawful activity”. To obtain an ITP, an applicant must submit an HCP that specifies (1) the impact that will likely result from the taking; (2) what steps the applicant will take to monitor, minimize and mitigate the impacts, and the funding that will be available to implement such steps; (3) what alternative actions to the taking the applicant considered and the reasons why the alternatives are not being utilized; and (4) how the applicant will carry out any other measures that we may require as being necessary or appropriate for purposes of the HCP. 50 CFR 17.22(b)(1)(iii); 50 CFR 17.32(b)(1)(iii)(C). If we find, after opportunity for public comment, with respect to the permit application and the related HCP that (1) the taking will be incidental; (2) the applicant will, to the maximum extent practicable, minimize and mitigate the impacts of such taking; (3) the applicant will ensure that adequate funding for the HCP will be provided, as well as procedures to deal with unforeseen circumstances; (4) the taking will not appreciably reduce the likelihood of the survival and recovery of the species in the wild; and (5) the measures, if any, required by us will be carried out; and we have received assurances that the plan will be implemented, then we will issue MEC the requested permit(s). 50 CFR 17.22, 17.32(b)(2)(i).

Eagles are protected under the Eagle Act, which prohibits take and disturbance of individuals and nests. “Take” under the Eagle Act includes any actions that pursue, shoot, shoot at, poison, wound, kill, capture, trap, collect, destroy, molest, and disturb eagles. 16 USC 668c. “Disturb” is further defined in 50 CFR 22.3 as to agitate or bother a bald or golden eagle to a degree that causes, or is likely to cause, based on the best scientific information available, (1) injury to an eagle, (2) a decrease in its productivity, by substantially interfering with normal breeding, feeding, or sheltering behavior, or (3) nest abandonment, by substantially interfering with normal breeding, feeding, or sheltering behavior. Our regulations at 50 CFR 22.11 allow Eagle Act take authorization to be extended to permittees authorized to take eagles by an ITP issued pursuant to section 10(a)(1)(B) of the ESA. Take coverage for bald eagles provided through an ITP applies for the duration of the permit, or until the amount or level of take authorized has been met, provided the permittee complies with all terms and conditions provided in the ITP.

### **Proposed MEC HCP**

The purpose of the HCP process and subsequent issuance of an ITP is to authorize the incidental take of threatened or endangered species and eagles, not to authorize the underlying activities that result in take. This process ensures that the effects of the authorized incidental take will be adequately minimized and mitigated to the maximum extent practicable.

The MEC HCP will encompass land within the State of Iowa where MEC facilities currently exist, are presently under construction, and where MEC may develop future facilities. MEC currently has approximately 4,050 megawatts (MW) of wind generation capacity installed or under construction and anticipates developing additional wind generation capacity over the requested 30-year term of their ITPs. Activities to be covered by the proposed HCP include those necessary to construct, operate, maintain and repair, decommission and reclaim, and repower utility-scale, multi-turbine wind energy projects within the State of Iowa. Covered activities also include development and management of mitigation lands and monitoring.

The MEC HCP would potentially cover four species that are subject to injury or mortality at wind generation facilities, including two federally listed species and two unlisted species. The two federally listed species are the Indiana bat and the northern long-eared bat. The two unlisted species are the little brown bat and the bald eagle. Species may also be added or deleted as the MEC HCP is developed, based on further analysis, new information, agency consultation, and public involvement.

## **Environmental Impact Statement**

NEPA (42 U.S.C. 4321 *et seq.*) requires that Federal agencies conduct an environmental analysis of their proposed actions to determine if the actions may significantly affect the human environment. Based on 40 CFR 1508.27 and 40 CFR 1508.2, we have determined that implementation of the proposed MEC HCP may have significant impacts on the human environment. Therefore, before deciding whether to issue ITPs to MEC, we will prepare an EIS to analyze the environmental impacts associated with those actions. The EIS will also include an analysis of a reasonable range of alternatives to the proposed action. Alternatives considered in the EIS may include, but are not limited to, variations in the permit term or permit structure; the

level of take allowed; the level, location, or type of conservation, monitoring, or mitigation provided in the MEC HCP; the scope of covered activities; the list of covered species; or a combination of these factors. Additionally, a no action alternative will be included.

The EIS is intended to analyze and disclose potential environmental impacts that could result from the issuance of ITPs to MEC for its existing and future facilities in the State of Iowa, including subsequent implementation of its proposed HCP. For permitting decisions on existing facilities (20) and facilities presently under construction (2), the EIS will address potential environmental impacts at specific temporal and spatial scales. For permitting decisions on future facilities with uncertain temporal and/or spatial scales, the EIS will evaluate environmental impacts programmatically, and include a process for assessing the need for subsequent NEPA review on future permitting decisions. If we find that our initial NEPA review has sufficiently analyzed potential environmental impacts, we will rely upon the analysis provided in our initial NEPA review. On the other hand, if there is significant new information of relevance to the proposed action or its impacts, we may choose to supplement our NEPA review by developing separate, stand-alone environmental documents that make use of tiering and incorporation by reference.

### **Request for Information**

We request data, comments, new information, or suggestions from the public, other concerned governmental agencies, the scientific community, Tribes, industry, or any other interested party on this notice. We will consider these comments in developing the draft EIS. We also seek specific comments on:

1. Biological information and relevant data concerning covered species;
2. Additional information concerning the range, distribution, population size, and population trends of covered species;
3. Direct, indirect, and cumulative impacts that implementation of the proposed covered activities could have on endangered, threatened, and other covered species, and their communities or habitats;

4. Other possible alternatives to the proposed action that the Service should consider;
5. Other current or planned activities in the subject area and their possible cumulative impacts on covered species;
6. The presence of archaeological sites, buildings and structures, historic events, sacred and traditional areas, and other historic preservation concerns, which are required to be considered in project planning by the National Historic Preservation Act;
7. Issues, questions, or concerns with developing an EIS which may be supplemented in the future to support additional ITP applications from MEC; and
8. Identification of any other environmental issues that should be considered with regard to the proposed MEC HCP and permit action.

### **Public Availability of Comments**

You may submit your comments and materials by one of the methods listed above in the **ADDRESSES** section. Before including your address, phone number, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—might be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Comments and materials we receive, as well as supporting documentation we use in preparing the EIS, will be available for public inspection by appointment, during normal business hours, at the Services' Rock Island Field Office in Moline, Illinois. (see **FOR FURTHER INFORMATION CONTACT**).

### **Scoping Meetings**

See **DATES** for the date/s and time/s of our public scoping meetings. The primary purpose of these meetings and public comment period is to provide the public with a general understanding of the background of the proposed action and to solicit suggestions and information on the scope of issues and alternatives we should consider when drafting the EIS. Written comments will be

accepted at the meetings. Comments can also be submitted by methods listed in the **ADDRESSES** section. Once the draft EIS and proposed MEC HCP are complete and made available for review, there will be additional opportunity for public comment on the content of those documents.

Persons needing reasonable accommodations in order to attend and participate in the public meetings should contact the Service using one of the methods listed above in **ADDRESSES** no later than one week before the public meeting. Information regarding this proposed action is available in alternative formats, upon request.

### **Authority**

We provide this notice under section 10 of the ESA (16 U.S.C. 1531 *et seq.*), section 668a of the Eagle Act (16 U.S.C. 668a–668d), NEPA (42 U.S.C. 4321 *et seq.*), and NEPA regulations (40 CFR 1501.7, 1506.5, 1506.6 and 1508.22).

**Dated: April 11, 2016**

**Lynn Lewis,  
Assistant Regional Director,  
Ecological Services,  
Midwest Region**

[FR Doc. 2016-09945 Filed: 4/27/2016 8:45 am; Publication Date: 4/28/2016]